

The Gazette of India



EXTRAORDINARY

PART II—Section 3—Sub-section (ii)

PUBLISHED BY AUTHORITY

No. 43]

NEW DELHI, FRIDAY, MARCH 4, 1960/PHALGUNA 14, 1883

MINISTRY OF LABOUR & EMPLOYMENT

NOTIFICATION

New Delhi, the 3rd March 1960

S.O. 579.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following three awards of the National Industrial Tribunal of India at Bombay, in the matter of applications under section 33 A of the said Act from certain workmen of the Cantonment Boards, Ferozepur and Meerut.

IN THE NATIONAL INDUSTRIAL TRIBUNAL OF INDIA AT BOMBAY

REFERENCE No. (NT) 2 OF 1958

In the matter of Industrial dispute between The Workmen and The Management of the Cantonment Board Ferozepore.

Complaint No. 10 of 1959 under section 33. A of the Industrial Dispute Act, 47.
Sat Pal S/o Shri Devi Dass Peon-cum-mali.

versus

Management Cantonment Board Ferozepore.

PRESENT

Shri F. Jeejeebhoy, Presiding Officer

APPEARANCES:

For the Complainant—Shri Jaswant Singh.

For the Employers—Shri K. K. Gamkhar.

AWARD

This is an application under Section 33A by one Satpal. He has never worked as a sweeper and his first appointment on 1-12-48 was that of a drain bhisti in the scale of Rs. 20-25. On 15th November 1957 he was made a peon-cum-mali in the Cantonment School.

Later on scale of pay for the post of peon-cum-mali in the school was increased from Rs. 20-25 to Rs. 27-35 with retrospective effect from 1st April 1957, and Shri Satpal drew the pay in the revised scale of the post. Later on in pursuance of a decision of the Cantonment Board dated 5th September 1958 to retrench, the posts of five octroi peons and a ward servant amongst other posts were abolished as a measure of economy, and thereafter according to the Cantonment Board the case of the applicant 'for continuance' in the revised scale of Rs. 27-35 was reviewed, and he was transferred back as sweeper in the scale of Rs. 22-30 which was the revised scale from Rs. 20-25. He was of course allowed to draw his pay in the scale of Rs. 27-35 of peon-cum-mali from March 1958 to December 1958 and also for the back period from 15th November 1957 to February 1958.

2. The applicant claims that in view of his appointment as peon-cum-mali he cannot be affected by the retrenchment. The Cantonment Board contends that he must take his seniority in the group of sweepers because they say that the sweepers and the drain bhisties and the peon-cum-malis all belong to one category, and that they can be changed about within that class even to the extent of being placed in a post with reduced pay. In this case it is said that in the category of sweepers, including the drain bhisties, the present applicant was postponed to others.

3. Much has been made by the Cantonment Board of the word "transfer" which was used when he was taken from the category of drain bhistie to peon-cum-mali. In fact the difference in the two designations in itself suggests two separate types of duties and responsibilities, and the Board does not deny that whether you call him a sweeper or a drain bhistie he has different duties and responsibilities to that of a peon-cum-mali, and that position was implicitly recognised by the fact that on revision the pay fixed was higher in the case of the latter category, which means that the wage fixing authority appreciated the difference in the duties and responsibilities between those two separate posts.

4. It has been contended by the Board that the post of peon-cum-mali has been upgraded, and that the applicant should be removed and put into the lower post of sweeper for reasons which in my view are untenable.

5. When a man is appointed to a particular post he is entitled to ask that he should be allowed to continue in that post in that cadre, and it is no answer that those who were with him at one time are now getting less, and therefore he also should be down graded. The object of revision was to do justice to the duties and responsibilities of the peon-cum-mali, and upon such revision being made Satpal as peon-cum-mali, was found entitled to a higher pay. It is not the case that Satpal was temporarily transferred or that he was officiating. What was actually done on 15th November, 1957, was to take him out of the category of drain bhistie and to put him into the category of peon-cum-mali; and thus no question of seniority arises as between him and those whom he left behind. The post of peon-cum-mali is not in the usual line of promotion for a sweeper.

6. It was said on behalf of the Board, and not denied by labour, that Satpal after 75 days earned leave joined as octroi peon, worked for one and a half months as such, and then refused to do sweeper's work, and it is said that he is working elsewhere. While there is no evidence to show that Satpal has got other work at present, it would not be surprising if he has taken up some other work in order to sustain himself until his application is decided.

7. I appreciate that the Cantonment Board is a small compact office, but we cannot ignore the difference between the sweeper and the peon-cum-mali, and it is admitted that the applicant has never worked as a sweeper. If because of the circumstance of a rise in the scale of peon-cum-mali the applicant has benefitted, it is in my opinion not open to the management to down grade him or to mix him up for purposes of seniority with those whom he had outstripped.

8. This application succeeds and is allowed. I direct that the applicant shall be taken back into the post of peon-cum-mali in the scale of Rs. 27-35. He shall not be entitled to any back wages, and the Cantonment Board shall intimate to him the award which I am making and shall inform him by registered letter that he must report for duty within a week thereafter, failing which the employee will be deemed to have forfeited his right to reposting. I make this award accordingly.

The 4th February, 1960.

(Sd.) F. JEEJEEHOY,

Presiding Officer,

National Industrial Tribunal, Bombay.

NATIONAL INDUSTRIAL TRIBUNAL OF INDIA AT BOMBAY

Application (U/S 33A) No. 37/59.

IN REF. (NT) NO. 2/58.

In the matter of an Application Under Section 33(A) of Industrial Dispute Act of 1947.
Shri Maghar Mal Mahajan—Applicants*Versus*

Cantonment Board, Meerut—Opponent.

PRESENT

Shri F. Jeejeebhoy, Presiding Officer.

AWARD

This is an application under Section 33A. It is a complaint of the Employee to the effect that although the Cantonment Board resolved to extend his services, the General Officer Commanding-in-Chief Eastern Command refused it, and gave no reasons for such refusal. I have already submitted my award on all the matters referred to me. In this case I recommend that the case of Shri Maghar Mal Mahajan be resubmitted to the General Officer Commanding-in-Chief Eastern Command with the request that the matter may be freshly considered in the light of paragraph 32 of the award.

An award is made accordingly.

(Sd.) F. JEEJEEBHOY, Presiding Officer,
National Industrial Tribunal, Bombay.

NATIONAL INDUSTRIAL TRIBUNAL OF INDIA AT BOMBAY

Application (U/S 33A) No. 1 of 60

IN REF. (NT) NO. 2 OF 58

In the matter of an Application Under Section 33(A) of Industrial Dispute Act of 1947.
Trilok Narain—Complainant*Versus*

Cantonment Board, Meerut—Opposite Party

PRESENT

Shri F. Jeejeebhoy, Presiding Officer.

AWARD

This is an application under Section 33A. It is a complaint of the Employee to the effect that although the Cantonment Board resolved to extend his services, the General Officer Commanding-in-Chief Eastern Command refused it, and gave no reasons for such refusal. I have already submitted my award on all the matters referred to me. In this case I recommend that the case of Shri Trilok Narain be resubmitted to the General Officer Commanding-in-Chief Eastern Command with the request that the matter may be freshly considered in the light of paragraph 32 of the award.

An award is made accordingly.

The 5th February, 1960.

(Sd.) F. JEEJEEBHOY, Presiding Officer,
National Industrial Tribunal of India, Bombay.

[No. 3/40/38-L.R.IV.]

P. M. MENON, Secy.

